IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Crl.MC.No. 2378 of 2007()

CC.157/1998 of JUDL.MAGISTRATE OF FIRST CLASS COURT, MANNARKAD

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PETITIONER:

XAVIER, AGED , S/O. JOSEPH IYPE,
UPPUMUTTATHU VEEDU,IRATTAVALI,
THIRUVIZHAMKUNNU,MANNARKKAD.

BY ADV. SRI.RENJITH B.MARAR
SRI.PRABHU VIJAYAKUMAR

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2378 of 2007

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Dated this the 25th day of July, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution, inter alia, under section 326 I.P.C. The verdict of guilty, conviction and sentence have now become final with the order passed by this Court in revision dt. 25.9.2006. The petitioner was directed to surrender before the learned Magistrate on or before 30.11.2006. He has not surrendered before the learned Magistrate so far. At this stage, on 24.7.2007, he has chosen to come before this Court with this petition. The prayer is to ensure that he is not sent to the prison where the victim in the case is also sent. The said victim, it is submitted, is an accused in a murder case where he is alleged to have murdered the brother of the petitioner. He is convicted and sentenced in that case. The petitioner apprehends physical harm if both were sent to the same prison.

2. The learned Prosecutor was directed to take instructions. At that stage the learned counsel for the petitioner submitted that the petitioner shall be satisfied if the petitioner is permitted to raise all his contentions before the learned Magistrate at the time when the learned Magistrate issues warrant of committal.

3. This Crl.M.C. is hence dismissed. Needless to say, the petitioner can made all his submissions before the learned Magistrate. The learned Magistrate, after hearing the prosecution also, must pass appropriate orders.

4. Hand over the order.

(R. BASANT)
Judge

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